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Pasig City, Philippines 1605

CIRCULAR 02-2021
25 March 2021

TO : All Procuring Entities

SUBJECT : Guidelines for the Procurement of Coronavirus Disease 2019 Vaccines and its Ancillary Supplies and Services or Other Goods and Services Authorized under Republic Act No. 11525 or the COVID-19 Vaccination Program Act of 2021

1. OBJECTIVE

This Circular is formulated to expedite the procurement of Coronavirus Disease 2019 (COVID-19) vaccines, and ancillary supplies and services or other goods and services necessary for the storage, transport, deployment, and administration of COVID-19 vaccines under the Republic Act (RA) No. 11525 or the *COVID-19 Vaccination Program Act of 2021*.

2. SCOPE AND APPLICATION

This Circular shall apply:

- 2.1. to all Procuring Entities (PEs) or any branch, constitutional commission or office, agency, department, bureau, office, or instrumentality of the Government of the Philippines, National Government Agencies, including Government-Owned and/or Controlled Corporations, Government Financing Institutions, State Universities and Colleges, and Local Government Units (LGUs) procuring Goods and Services;¹ and
- 2.2. for the procurement of the following:
 - a. COVID-19 vaccines, through the Department of Health (DOH) and the National Task Force Against COVID-19 (NTF); and
 - b. ancillary supplies and services or other goods and services necessary for the storage, transport, deployment, and administration of COVID-19 vaccines, as defined by the DOH.

3. GENERAL GUIDELINES

- 3.1. The procurement modality to be reflected in the Annual Procurement Plan (APP) shall be Negotiated Procurement (Emergency Cases) pursuant to Section 53(b) of RA No. 9184 and Section 53.2 of its 2016 revised Implementing Rules and

¹ Refer to all items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind, including non-personal or contractual services such as the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services, as well as procurement of materials and supplies provided by the procuring entity for such services as defined in Section 5(h) of RA No. 9184.

Regulations (IRR) for all Procurement Projects² under Item 2.2, subject to the conditions or requirements provided hereunder.

- 3.2. The DOH, NTF, and PEs shall ensure that in the negotiation for the procurement of Item 2.2, the price, provision on advance payment and other terms and conditions shall not be disadvantageous to the government.³
- 3.3. Procuring from several sources, if no one supplier is able to provide the required quantity, shall not be considered as splitting of contracts.
- 3.4. Pursuant to Section 11 of RA No. 11525, Procurement Projects under this Circular are exempt from customs duties, value-added tax, excise tax, donor's tax, and other fees, subject to the rules and regulations that may be issued by the Bureau of Internal Revenue.
- 3.5. As provided under Section 4 of RA No. 11525, LGUs that will be procuring COVID-19 vaccines shall ensure that the quantity to be procured shall be limited to seventy-five percent (75%) of the target population for vaccination. The quantity of vaccines to be procured may only be increased or adjusted by the Inter-Agency Task Force for the Management of Emerging Infectious Disease when there is a determination by the DOH and the NTF that there is sufficient supply of vaccines.
- 3.6. For record and monitoring purposes, all documents relating to the award of contract for the procurements covered by this Circular shall be immediately submitted to the Head of the Procuring Entity (HoPE), through the Bids and Awards Committee (BAC), to ensure compliance with all the conditions and requirements under RA No. 11525 and this Circular.

4. PROCEDURE FOR THE PROCUREMENT OF COVID-19 VACCINES

PEs are guided by the following in the procurement of COVID-19 vaccines:

- 4.1. Prior to the conduct of negotiations, the DOH and the NTF shall coordinate with the PE that will be funding the procurement to determine the budget for the purpose. The funds for the procurement of COVID-19 vaccines shall be validated by the appropriate office in the PE to ensure that there are funds in its budget to cover for the same.

Once validated, the procurement of COVID-19 vaccines shall be included by the PE in its APP approved by the HoPE or its duly authorized official.

- 4.2. In view of the urgent necessity of this procurement, the DOH and the NTF may commence with the procurement of COVID-19 vaccines even without an approved APP subject to the validation by the appropriate office in the PE that there are funds in its budget to cover the same.

The APP shall be approved before the processing of payment and the approved APP shall be posted on the PE's website within thirty days (30) from its approval. In case a PE does not have an agency website, the approved APP shall be posted at any conspicuous place reserved for this purpose in the premises of the PE.

² Definition covered by this Circular shall be Negotiated Procurement (Emergency Cases) under Section 53(b) of RA No. 9184 and Section 53.2 of its 2016 revised IRR.

³ The parties should exercise prudence and caution in making the advance payment seeing to it that the same will not constitute as irregular, unnecessary, extravagant, excessive or unconscionable use of funds, as defined under existing accounting and auditing rules.

- 4.3. The DOH and NTF shall determine the preparatory documents and requirements for the negotiations in the procurement of COVID-19 vaccines based upon the market research of available suppliers, manufacturers or distributors. The DOH and NTF shall likewise identify any eligibility documents as well as the form and content of the formal offer or bid submission or any other negotiation documents they deem necessary based upon their negotiations.

In determining the foregoing documents and requirements, the DOH and the NTF shall ensure that the COVID-19 vaccines to be procured are compliant with the rules of the Food and Drugs Administration pursuant to Section 6⁴ of RA No. 11525.

- 4.4. After negotiations, the DOH and/or the NTF shall inform the PE of the results thereof, including any additional documents required to be submitted prior to the execution of contract or any similar agreements, to ensure the timely, effective and efficient execution of the contract, either in the form of a tripartite agreement, supply agreement, advance market commitment, purchase order or any similar arrangements as may be prescribed by the DOH and the NTF.

The HoPE may also delegate the signing of the said contract or any similar agreements to any official of the PE, except to an official where there exists a conflict of interest, such as the person who was authorized to directly participate in the negotiations.

- 4.5. The issuance of the Notice of Award (NOA) and Notice to Proceed (NTP) after the award and/or the signing of contract or any similar agreements shall not be required for this procurement.

5. PROCUREMENT OF ANCILLARY SUPPLIES AND SERVICES OR OTHER GOODS AND SERVICES NECESSARY FOR THE STORAGE, TRANSPORT, DEPLOYMENT, AND ADMINISTRATION OF COVID-19 VACCINES

- 5.1. PEs shall negotiate for the procurement of ancillary supplies and services or other goods and services necessary for the storage, transport, deployment, and administration of COVID-19 vaccines in accordance with the procedure provided herein.

The determination of what constitutes ancillary supplies and services or other goods and services necessary for the storage, transport, deployment, and administration of COVID-19 vaccines shall be made by the PE in accordance with the definition provided by the DOH, as the agency mandated to develop national plans, technical standards, and guidelines on health pursuant to Executive Order No. 102, series of 1999.⁵

For the purpose of this Circular, ancillary supplies and services or other goods and services necessary for the storage, transport, deployment, and administration of COVID-19 vaccines shall be collectively referred to herein as "Ancillary Supplies and Services."

- 5.2. To ensure the efficient and timely procurement of Ancillary Supplies and Services under RA No. 11525, PEs are encouraged to delegate the following authorities in this wise:

⁴ The National Government, as well as the LGUs, private entities and the Philippine Red Cross, may only procure COVID-19 vaccines that are registered with the Food and Drugs Administration as evidenced by a valid Certificate of Product Registration or which possess an Emergency Use Authorization pursuant to Section 6 of RA No. 11525.

⁵ Entitled, "Redirecting the Functions and Operations of the Department of Health."

- a. the HoPE, with respect to the awarding and/or signing of contract or any similar agreements for the procurement of Ancillary Supplies and Services, may delegate to any official of the PE, except to those where there exists conflict of interest such as the BAC Chairperson, members or person authorized to negotiate the bidding; and
- b. the BAC in the direct negotiation with a legally, technically and financially capable supplier, manufacturer, distributor or service provider for the procurement of Ancillary Supplies and Services. The HoPE may delegate the said authority to the end-user unit or any appropriate bureau, committee, support or procuring unit.

If no such delegation is made, the BAC shall be the one to directly negotiate with a legally, technically and financially capable supplier, manufacturer, distributor or service provider.

5.3. Preparation of Project Requirements:

5.3.1. The end-user or implementing unit of the PE shall prepare the project requirements, with the following details:

- a. Approved Budget for the Contract (ABC);
- b. Name and Details of the Ancillary Supplies and Services;
- c. Name of the supplier, manufacturer, distributor or service provider; and
- d. Other relevant information that may be required by the National Vaccination Program and other related issuances issued by the DOH and the NTF.

5.3.2. The project requirements and contract packaging shall be based on the PE's needs and the capability of supplier, manufacturer, distributor or service provider as determined through initial market scanning or scoping accompanied by appropriate supporting documents identifying the Ancillary Supplies and Services (e.g., Technical Specifications) to be procured. Specifications for the procurement of Ancillary Supplies and Services shall be based on relevant characteristics, functionality, and/or performance requirements.

5.3.3. There is no required form to be used in the preparation of the project requirements.

5.3.4. The project requirements shall then be submitted to the BAC or duly authorized bureau, committee, support or procuring unit for the conduct of procurement.

5.4. Updating of the APP:

5.4.1. The BAC or end-user unit or any other appropriate bureau, committee, support or procuring unit shall recommend for approval of the HoPE or his or her duly authorized official any updating of the APP to cover the procurement of Ancillary Supplies and Services, subject to the validation by the appropriate office in the PE that there are funds in its budget to cover for the same.

5.4.2. In view of the urgent necessity to procure Ancillary Supplies and Services, the PE may commence with the procurement even without an approved APP subject to the validation by the appropriate office in the PE that there are funds in its budget to cover for the same.

5.4.3. The APP shall be approved before the processing of payment and the approved APP shall be posted on the PE's website within thirty days (30) from its approval. In case a PE does not have an agency website, the approved APP shall be posted at any conspicuous place reserved for this purpose in the premises of the PE.

5.4.4. The approval of the APP by the HoPE or his or her duly authorized official covering the procurement using Negotiated Procurement (Emergency Cases) pursuant to Section 53(b) of RA No. 9184 and Section 53.2 of its 2016 revised IRR effectively confirms the existence and veracity of the ground(s) relied upon in resorting thereto.

5.5. Documentary Requirements:

5.5.1. PEs already maintaining a bidder's updated file of any of the following requirements, whether through the PhilGEPS Certificate of Registration and Membership or its own records, shall not require its resubmission.

5.5.2. Otherwise, PEs shall require one copy of the following documentary requirements:

- a. Mayor's or Business Permit;
- b. Omnibus Sworn Statement (OSS), which shall be an original copy, a template of which is attached herewith as "Appendix 1" for reference;

For projects with an ABC above PhP 500,000.00:

- c. Income Tax Returns (Annual Income Tax Return of the preceding tax year) OR Business Tax Returns (Value Added Tax or Percentage Tax Return covering the previous six months).

5.5.3. Bid security is not required for this procurement. On the other hand, PEs have the option to require or dispense with the submission of performance and/or warranty securities depending on the nature of the Procurement Project.⁶

5.6. Rules in the submission of documentary requirements:

5.6.1. Suppliers, manufacturers, distributors or service providers may submit their documentary requirements in printed copies or by electronic mail or facsimile.⁷

5.6.2. The use of digital signature or similar means may be used in all procurement-related documents.⁸

5.6.3. PEs are allowed to accept a copy of the recently expired Mayor's or Business Permit and other documents showing proof of application for renewal such as the Official Receipt and payment for the renewal of the permit will suffice, subject to submission of the Mayor's Permit after award of contract but before payment.⁹

⁶ Section 54.5 and Item IV (M) of Annex H of the 2016 revised IRR of RA No. 9184.

⁷ GPPB Resolution 09-2020, dated 07 May 2020.

⁸ *Id.*

⁹ *Id.*

- 5.6.4. As a general rule, the OSS shall be submitted at any time before award of contract. However, an unnotarized OSS may be accepted subject to compliance therewith after award but before payment.¹⁰
- 5.6.5. For foreign suppliers, manufacturers, distributors or service providers, the equivalent document in their jurisdiction, for the documents required herein, would suffice consistent with Section 23.2 of the 2016 revised IRR of RA No. 9184.
- 5.7. Once the project requirements are completed and the APP has been updated or budget has been confirmed, as the case may be, the BAC or duly authorized end-user unit or any other appropriate bureau, committee, support or procuring unit shall then directly negotiate or procure from a legally, technically and financially capable supplier, manufacturer, distributor or service provider.
- 5.8. The BAC, or duly authorized end-user unit or any other appropriate bureau, committee, support or procuring unit, shall recommend to the HoPE or his or her duly authorized official the award of the contract to the supplier, manufacturer, distributor or service provider after validation of the required documents under Item 5.5.
- 5.9. The HoPE or his or her duly authorized official shall immediately enter into contract with the supplier, manufacturer, distributor or service provider, subject to Section 41 of RA No. 9184 or the Reservation Clause.
- 5.10. The issuance of the NOA and NTP after the award and/or the signing of contract or any similar agreements shall not be required for this procurement.

6. ADVANCE PAYMENT

- 6.1. Pursuant to Sections 3 and 4 of RA No. 11525, all PEs are authorized to make an advance payment up to the full cost of the contract price under the following conditions:
 - 6.1.1. to cover the procurement of vaccines, and ancillary supplies and services or other goods and services necessary for the storage, transport, deployment, and administration of COVID-19 vaccines as defined by the DOH; and
 - 6.1.2. when advance payment is required by the supplier, manufacturer, distributor or service provider.
- 6.2. Consistent with Item 3.2 above, the DOH and the NTF, as well as all PEs shall ensure that in agreeing to provide an advance payment, the same will not constitute as an irregular, unnecessary, extravagant, excessive or unconscionable use of funds, as defined under existing accounting and auditing rules.
- 6.3. The amount of advance payment agreed upon and the reasons therefor shall be posted in accordance with Item 7 of this Circular.

7. POSTING REQUIREMENTS

- 7.1. For purposes of transparency and accountability, the following information shall be posted:
 - a. ABC or company budget;

¹⁰ *Id.*

- b. Name and details of the ordered or procured COVID-19 vaccines or Ancillary Supplies or Services;
 - c. Name of the supplier, manufacturer, distributor or service provider;
 - d. Amount of advance payment made and the reasons given by the supplier, manufacturer, distributor or service provider; and
 - e. Amount of contract as awarded or agreed upon.
- 7.2. For the procurement of COVID-19 vaccines, posting shall be made as follows:
- a. PEs shall post the information in Item 7.1 at any conspicuous place in their premises and on the GPPB Online Portal,¹¹ within thirty (30) days after award or execution of a contract or any similar agreements.
 - b. In the case of the Philippine Red Cross (PRC) and private entities, the posting shall be made on the GPPB Online Portal within thirty (30) days after execution of a contract or any similar agreements in accordance with Section 6 of RA No. 11525.
 - c. For those covered by the retroactive provision under Sections 3 and 4 of RA No. 11525,¹² the posting shall be made within thirty (30) days after the effectivity of this Circular.
- 7.3. For the procurement of Ancillary Supplies and Services, PEs shall post the information in Item 7.1 at any conspicuous place in their premises and on the GPPB Online Portal,¹³ within thirty (30) days after award or execution of a contract or similar agreement.
- 7.4. PEs procuring COVID-19 vaccines and Ancillary Supplies and Services, and the PRC, and private entities procuring COVID-19 vaccines shall nominate their principal and alternative authorized representatives who shall be provided access for posting the required procurement information on the GPPB Online Portal. A copy of the agency or company ID showing the name and position, as well as the email address of the said authorized representatives shall be endorsed by the BAC Chairperson for PEs or appropriate officer for the PRC and private entities to the GPPB through GPPBonlineregistration@gppb.gov.ph.

8. EFFECTIVITY

This Circular shall take effect immediately upon publication and shall remain in full force and effect during the period of the State of Calamity.

Sgd.

WENDEL E. AVISADO

Secretary, Department of Budget and Management
Chairperson, Government Procurement Policy Board

¹¹ Section 6 of RA No. 11525.

¹² Sections 3 and 4 of RA No. 11525 indicate that these Sections have retroactive application from 01 January 2021.

¹³ Section 6 of RA No. 11525.

Omnibus Sworn Statement
for Procurement of Ancillary Supplies and Services necessary for the storage, transportation, deployment, and administration of COVID-19 Vaccines under Republic Act No. 11525 otherwise known as the “COVID-19 Vaccination Program Act of 2021”

REPUBLIC OF THE PHILIPPINES)
 CITY/MUNICIPALITY OF _____) S.S.

AFFIDAVIT

I, [Name of Affiant], of legal age, [Civil Status], [Nationality], and residing at [Address of Affiant], after having been duly sworn in accordance with law, do hereby depose and state that:

1. *[Select one, delete the other:]*

[If a sole proprietorship:] I am the sole proprietor or authorized representative of [Name of Bidder] with office address at [address of Bidder];

[If a partnership, corporation, cooperative, or joint venture:] I am the duly authorized and designated representative of [Name of Bidder] with office address at [address of Bidder];

2. *[Select one, delete the other:]*

[If a sole proprietorship:] As the owner and sole proprietor, or authorized representative of [Name of Bidder], I have full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for [Name of the Project] of the [Name of the Procuring Entity], as shown in the attached duly notarized Special Power of Attorney;

[If a partnership, corporation, cooperative, or joint venture:] I am granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for [Name of the Project] of the [Name of the Procuring Entity], as shown in the attached [state title of attached document showing proof of authorization (e.g., duly notarized Secretary’s Certificate, Board/Partnership Resolution, or Special Power of Attorney, whichever is applicable)];

3. [Name of Bidder] is not “blacklisted” or barred from bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board, by itself or by relation, membership, association, affiliation, or controlling interest with another blacklisted person or entity as defined and provided for in the Uniform Guidelines on Blacklisting;
4. Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
5. [Name of Bidder] is authorizing the Head of the Procuring Entity or its duly authorized representative(s) to verify all the documents submitted;
6. *[Include this clause if the Procuring Entity opts to dispense with the Performance and/or Warranty Security]* [Name of Bidder] confirms that the posting of a performance security has been dispensed with due to the urgent need for the procurement of ancillary supplies and services covered by Republic Act (RA) No. 11525 or the COVID-19 Vaccination Program Act of 2021. In lieu thereof, [Name of Bidder] hereby commits to perform and deliver all of the

obligations and undertakings, *{[if warranty security is not dispensed with, delete:]* including the warranty provisions} under the contract covering the procurement at hand. [Name of Bidder] further agrees and accepts that failure to perform or deliver any of such obligations and undertakings shall result in Blacklisting.

7. *[Select one, delete the rest:]*

[If a sole proprietorship:] The owner or sole proprietor is not related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

[If a partnership or cooperative:] None of the officers and members of *[Name of Bidder]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

[If a corporation or joint venture:] None of the officers, directors, and controlling stockholders of *[Name of Bidder]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

8. *[Name of Bidder]* complies with existing labor laws and standards; and

9. *[Name of Bidder]* is aware of and has undertaken the responsibilities as a Bidder in compliance with the Philippine Bidding Documents, which includes:

- a. Carefully examining all of the Bidding Documents;
- b. Acknowledging all conditions, local or otherwise, affecting the implementation of the Contract;
- c. Making an estimate of the facilities available and needed for the contract to be bid, if any; and
- d. Inquiring or securing Supplemental/Bid Bulletin(s) issued for the *[Name of the Project]*.

10. *[Name of Bidder]* did not give or pay directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.

11. In case advance payment was made or given, failure to perform or deliver any of the obligations and undertakings in the contract shall be sufficient grounds to constitute criminal liability for Swindling (Estafa) or the commission of fraud with unfaithfulness or abuse of confidence through misappropriating or converting any payment received by a person or entity under an obligation involving the duty to deliver certain goods or services, to the prejudice of the public and the government of the Philippines pursuant to Article 315 of Act No. 3815 s. 1930, as amended, or the Revised Penal Code.

IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of ___, 20__ at _____, Philippines.

[Insert NAME OF BIDDER OR ITS AUTHORIZED REPRESENTATIVE]

[Insert signatory's legal capacity]
Affiant

[Jurat]

[Format shall be based on the latest Rules on Notarial Practice]